

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Kathleen Ann Thornberry,

Debtor.

Chapter 7

BK 02-32159

Habbo G. Fokkena, United States Trustee

Plaintiff,

Adv. No. 04-3029

vs.

Kathleen Ann Thornberry,

Defendant.

WITHDRAWAL OF MOTION FOR SUMMARY JUDGMENT

1. The United States Trustee withdraws his motion for summary judgment.
2. The hearing on the motion for summary judgment may be stricken. The hearing was scheduled on September 22, 2004, at 11:30 a.m. before the United States Bankruptcy Court, Courtroom No. 228B, United States Courthouse, 316 North Robert Street, St. Paul, Minnesota.
3. As noted in the motion for summary judgment, the settlement agreement reached at the status conference in this matter provided that the defendant would do the following to settle the adversary proceeding:
 - a. the debtor would provide copies of her 2001 and 2002 tax returns;
 - b. the debtor would pay \$ 500.00 to the chapter 7 trustee;
 - c. If the debtor failed to accomplish (a) and (b) above, within thirty (30)

days of May 4, 2004, the United States Trustee would move for summary judgment.

4. The debtor has now complied with each element agreed to at the status conference and has turned over the final \$ 250 of the attorney fee, which remained outstanding.^{1/}

5. Given the debtor's compliance, the United States Trustee no longer wishes to pursue this matter.

6. The United States Trustee obtain a stipulation to dismiss this adversary complaint in compliance with FED. R. BANKR. P. 7041(a)(1), or if unsuccessful, will move to dismiss the complaint.

Dated: September 14, 2004

Respectfully submitted,
HABBO G. FOKKENA
United States Trustee
Region 12

By: /s/ Sarah J. Wencil
Sarah J. Wencil
Trial Attorney
United States Trustee's Office
1015 United States Courthouse
300 South Fourth Street
Minneapolis, MN 55415
IA ATTY No. 14014
(612) 664-5500

^{1/} Although, not subject to this adversary proceeding, the debtor has also turned over the underlying tax refunds that were discovered after the tax returns were turned over.

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UNSWORN CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee in the Office of the United States Trustee for the District of Minnesota and is a person of such age and discretion as to be competent to serve papers.

That on September 14, 2004, she served a copy of the attached: Withdrawal of Motion for Summary Judgement by placing said copies in a postpaid envelope addressed to the person(s), herein after named, at the place and address stated below, which are the last known addresses, and by depositing said envelope and contents in the United States Mail at Minneapolis, Minnesota.

Addressees:

Kathleen Ann Thornberry
8705 Greene Avenue South
Cottage Grove, MN 55016

Steven C. Opheim
Dudley & Smith
Suite 2602 U.S. Bank Center
101 East Fifth Street
St. Paul, MN 55101-1986

Nauni J. Manty
Rider Bennett, LLP
333 South Seventh Street, Suite 2000
Minneapolis, MN 55402

A handwritten signature in cursive script, appearing to read "Terri Frazer", is written over a horizontal line.

Office of the United States Trustee
Terri Frazer